

COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY ON CALIFORNIA PERFORMANCE REVIEW REPORT ON INFRASTRUCTURE

Three years after an energy crisis, precipitated in large part by a shortage of electric infrastructure (generation and transmission), the one lesson California should have learned, and the one electricity goal the State should have, is to ensure that there is no repeat of the shortage we experienced in 2000-2001. However, this year, the Independent System Operator has already experienced record loads, yet virtually no new supply is likely to be added either in 2004 or 2005. Despite these conditions, the State continues to flounder in its attempts to address and put into operation a workable and enforceable structure to ensure resource adequacy – steps needed to assure sufficient supply and fairly allocate the costs of that supply – and is following a path that will not produce more resources. Instead, much of the dialogue occupying policymakers on electricity issues surrounds reinstating direct access. Direct access in and of itself will not attract incremental resources.

With this as background, on the issue of electricity, the California Performance Review should place its highest priority on pressing toward ensuring adequate infrastructure and resource adequacy. While SDG&E agrees with the Report's conclusion that California siting rules are "fractured and inefficient", we believe that the remedies the Report offers do not go far enough in fixing the siting problem, and fail altogether to address the imminent shortage of resources the State faces. Indeed, it seems to be more concerned with the extent to which siting fees might be charged¹ than it does with the development of adequate infrastructure.

SDG&E believes that if the State doesn't immediately and urgently begin dealing with the fundamental flaws in California's energy market, instead of diverting its attention to minor secondary issues then the looming prospects of blackouts in the coming years will be inevitable.

Resource Adequacy Should Be the First Electric Infrastructure Task the State Should Address

"Resource Adequacy" is the term used to describe the means to assure that there will be adequate capacity and reserves to serve all load. In the days when utilities served all load and there was seldom, if ever, load migration, it was easy to look to the utility to address this, with oversight from state regulators. This system, from a resource adequacy perspective, worked well and grid reliability was assured. Today, load can migrate among different suppliers and there is a diverse range of supply sources – e.g., investor-owned utilities, municipally-owned utilities, community choice aggregators, direct access service providers – but there is no uniform oversight monitoring or enforcing performance of any of these suppliers other than the investor-owned utility.

There is uniform agreement that in order to avoid shortages, California needs resource adequacy rules to ensure adequate infrastructure. A report on California energy infrastructure should include

¹ Specifically, the Report includes as one of its two infrastructure recommendations – "The Governor should work with the Legislature to require the CEC, or its successor, to charge applicants siting and compliance fees that reflect the actual costs of processing the application. These fees should be implemented after the siting entity completes a siting cost study."

as its first item of business, addressing and resolving the resource adequacy issue. The fracture that exists with respect to regulation of facility siting also exists with respect to oversight of retail suppliers. Investor-owned utilities are regulated by the CPUC; the scope of CPUC oversight over direct access service providers and community choice aggregators has not been tested, and has been challenged. Municipal utilities have no oversight on grid reliability. Yet, despite this fractured approach, at present, California seems to be pursuing a decentralized approach to resource adequacy, relying on the individual performance of each retail supplier. With different entities subject to different rules and different levels of oversight, and some entities (such as municipal utilities) subject to no rules at all, it is not clear how the State can monitor compliance, enforce sanctions for non-compliance, and ensure that new resources are added in a timely manner if they are needed. This is a recipe for disaster.

For resource adequacy to work, California needs the following:

- Ensure, on a grid-wide basis, the existence of adequate physical reserves that are dedicated to serve all load requirements in the state where and when they are needed.
- Price signals demonstrating scarcity must be available sufficiently in advance of need to allow the needed capacity to be built before the shortage develops.
- Avoid cross-subsidies and bypass of resource adequacy costs and responsibility.
- Ensure that the state of California has the ability to adopt and modify resource adequacy rules in a manner appropriate and necessary to meet the needs of California.
- Ensure that resource adequacy costs are reasonable.
- Develop enforceable and consistent rules, and, where enforcement of rules is needed, ensure that there is an entity with the authority to monitor and enforce compliance and that there are effective rules governing failure to comply.
- Those responsible for resource adequacy must be able and willing to enter into the commitments necessary to support new supply
- Enforcement must take place sufficiently in advance of needed resource commitments to assure that needed resources can be added if there is a failure to perform (after-the-fact enforcement is inadequate, although still necessary to ensure continuing compliance with applicable requirements).

These must be the urgent, near-term objectives of any initiative to ensure that the State has adequate infrastructure. SDG&E has developed in-depth proposals to advance the State in the needed direction and is prepared to discuss them in detail, when appropriate.

Siting Transmission and Generation and Removing Agency Conflicts Should Be A High Priority Infrastructure Issue

It is nearly impossible to site transmission in California, and it is getting even more difficult. San Diegans have already learned this the hard way, and will pay additional costs as a result of

duplicative regulation, agency delays and refusals to approve needed transmission in a timely manner. This failure to act could also jeopardize local reliability in San Diego and other regions within the State of California. The Report correctly concludes that “infrastructure siting for energy facilities is fractured and inefficient due to overlapping permitting authorities”. The solution the Report offers -- transferring siting authority to the Infrastructure Authority -- will not alone cure the problem. SDG&E had one-stop permitting for its efforts to gain approval for transmission, but this did not reduce the delays or cause new infrastructure to be built. What is needed is action and governmental coverage to allow infrastructure development in the face of NIMBY opposition.

At present, state law charges the CPUC with the responsibility for reviewing and approving investor-owned utility resource and procurement plans. In assessing these plans, the commission considers the trade off between transmission and generation and determines the proper mix of resources the utility should pursue. With respect to generation, the state also determines what rates a utility may collect to recover costs of service and return on investment in assets used to serve customers. Unless the change in responsibilities includes transferring responsibility for rates and resource plan review, or unless other regulatory agencies are forbidden to adopt decisions inconsistent with those of other regulatory agencies, there will continue to be the potential for agency conflict. SDG&E could support the transfer of siting authority, but only if it includes specific safeguards to prevent multiple responsible agencies (i.e., the CPUC and the Infrastructure Authority) from whipsawing utilities seeking siting approvals by issuing conflicting decisions or by failing to provide for full rate relief. Alternatively, the CPUC could retain its siting authority over transmission, but could be required to honor relevant findings of need by the Independent System Operator and other relevant policy determinations from key agencies when necessary to prevent creating a policy conflict that interferes with the speedy development of needed infrastructure.

This is a complex regulatory problem and it is crucial not to oversimplify it, or assume that the problem will be solved simply by transferring siting authority. SDG&E is prepared to work with the State to develop the rules needed to protect against agency conflicts frustrating the prompt siting of needed transmission.

Conclusion

While we consider it to be a good start to reform the agency conflicts inherent in resource siting, simply rearranging regulatory responsibilities will not by itself solve California’s growing energy problems. California needs a genuine sense of urgency at all levels of government and a focused and methodical plan to build California’s needed energy infrastructure. Stopgap measures, exceptions for political convenience, or, worse yet, ignoring the breadth and consequences of the problem will only bring the State closer to a potential catastrophe, jeopardizing the quality of life that we have come to expect, and more importantly, California’s economic recovery.